

REMARKS

This document is filed in reply to the Final Office Action dated May 5, 2006 ("Final Office Action") and as a summary of the telephone interview on August 8, 2006. Claims 1-29 are pending. Claims 1-7, 17-19, and 29 are under examination.

Applicants would like to thank the Examiner for granting the interview to discuss independent claim 1, which is drawn to a method of detecting a target body in a specimen. The method includes acquiring and recording a first image and a second image at a location in a specimen field that has been exposed to a first fluorophore and a second fluorophore. In the response to the last office action, Applicants amended claim 1 to specify that the first image is acquired and recorded at a low magnification and pointed to a supporting passage in the specification. However, the Examiner countered that the amendment introduced new matter and rejected claims 1-7, 17-19, and 29 under 35 U.S.C. § 112, first paragraph as falling to comply with the written description requirement.

During the interview, Applicants' counsels pointed to a second passage in the specification, i.e., page 8, line 10 to page 9, line 7, and argued that this passage supported the amendment. The Examiner stated that the arguments seemed persuasive, stated that he would need to study the matter further, and requested that Applicants file a written response.

Applicants have hereby filed the requested response and would like to point out that the above-mentioned second passage supports the amendment at issue. More specifically, this passage teaches a detection method that includes

“scanning [a] specimen field at a low magnification for first sources of photons at [a] first wavelength and for second sources of photons at [a] second wavelength;

registering the location of each first source and each second source within the specimen field;

acquiring and recording a first image of the specimen field at each location, the first image generated via an optical or electronic filter that substantially blocks photons of the second wavelength but is permissive for photons of the first wavelength;

acquiring and recording a second image of the specimen field at each location at a high magnification, the second image generated via an optical or electronic filter that substantially blocks photons of the first wavelength but is permissive for photons of the second wavelength;”


See, page 8, line 10 to page 9, line 7 (emphases added). With this teaching, one skilled in the art would clearly recognize that the specification teaches that (i) the steps of "scanning," "registering the location of each first source and each second source," and "acquiring and recording a first image" are conducted at the same, "low magnification" and (ii) the step of "acquiring and recording a second image" is conducted at "a high magnification." Thus, amending claim 1 to specify "acquiring and recording a first image ... at the low magnification" does not introduce new matter, and Applicants request that the rejection under 35 U.S.C. § 112, first paragraph be withdrawn.

In view of the above remarks, Applicants submit that claims 1-7, 17-19, and 29 are in condition for allowance, and such action is respectfully requested.

Enclosed is a Notice of Appeal and a Petition for One Month Extension of Time. The fees in the amount of \$250 and \$60 are being paid concurrently on the Electronic Filing System (EFS) by way of Deposit Account authorization. Please apply any other required fees to deposit account 06-1050, referencing the attorney docket number shown above.

Respectfully submitted,

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